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| 09/849,907 | 05/04/2001 | Van Nguyen | 12929.0061 | 9112 |

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Stephen H. Cagle
750 Bering Drive
Houston, TX 77057-2198

EXAMINER

BAXTER, GWENDOLYN WRENN

| | |
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| ART UNIT | PAPER NUMBER |
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3632

DATE MAILED: 08/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/849,907

Applicant(s)

NGUYEN, VAN

Examiner

Gwendolyn Baxter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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This is the first office action for serial number 09/849,907, Apparatus for Supporting Medical Fluids, filed on May 4, 2001.

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Claim Rejections - 35 USC § 112

Claims 1-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, line 12 of page 11, "the position" lacks proper antecedent basis.

In claim 2, line 14 of page 11, the possessive pronoun "its" should be replaced with the proper noun to avoid any ambiguity, thus distinctly claiming and particularly pointing out the subject matter. A similar problem occurs in claims 9 and 14.

In claim 3, line 18 of page 11, "the longitudinal axis" lacks proper antecedent basis. Similar problem occurs in claims 7, 13.

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In claim 10, line 12 of page 12, "or" should read --and--. A similar problem occurs in claim 19.

In claim 12, lines 18 and 19, "a receptacle" should read --the receptacle-- to reflect the antecedence provided at line 10 of page 11 of claim 1.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,865,757 to Honsowetz, hereinafter Honsowetz. The present invention reads on Honsowetz as follows: Honsowetz discloses an apparatus comprising a clamp (10), a first arm portion (15), a second arm portion (16), and a fluid receptacle support (18, 21). The clamp releasably secures the apparatus to an item of furniture (A). The first arm portion extends from the clamp. The second portion extends from the first arm portion. The fluid receptacle support is mounted on the second arm portion, wherein the first arm portion and second arm portion are movable with respect to the clamp such that the fluid receptacle support may be moved within a plane containing the longitudinal axis of the first arm portion and the longitudinal axis of the second arm portion. The first arm portion is rotatable about its longitudinal axis with respect to the clamp,

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since the first arm portion is not fixedly attached to the clamp. The first arm portion is rotatable about the clamp in a plane containing the longitudinal axis of the arm portion along the axis parallel to the fastener (14). The second arm portion is rotatable about the first arm portion since the second arm portion is not fixed to the first arm portion, therefore being capable to rotate.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 10-13, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,547,092 to Vetter in view of U.S. Patent No. 2,957,187 to Raia. Vetter teaches an apparatus comprising a clamp (10) and an arm (26). The clamp removably secures the apparatus to an object or medical table (abstract) to allow the object to support the apparatus. The object is immovable relative to the patient to which the fluids are to be delivered. The arm extends from the clamp. The arm is movable longitudinally with respect to the clamp (col. 4, line 3 +), thereby allowing the position of the support with respect to the clamp to be adjusted. The arm is rotatable about its longitudinal axis with respect to the clamp. The arm is rotatable about the clamp in a plane containing the longitudinal axis of the arm (col. 4, line 7+). The object is a surgical table (col. 2, line 56+). The clamp is adapted to be releasably secured to a rail (13)

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extending along an edge of the surgical table. However, Vetter fails to teach the details of the supporting members for supporting receptacles for medical fluids for intravenous delivery to a patient.

Raia teaches a support for supporting receptacles for medical fluids for intravenous delivery to a patient. The support (27, 34, 35) is connected to the arm (10) remote from the clamp. The support is adapted to retain a receptacle (15) containing medical fluids. The support is mounted on a rod (18), wherein the rod is mounted to an end of the arm (16,17) remote from the clamp and movable with respect to the end of the arm. The rod extends telescopically within the arm. The support is adapted to retain the receptacle containing fluid for delivery to the patient intravenously. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the arm as taught by Vetter to have incorporated the arm, rod and support as taught by Raia for the purpose of supporting a medical receptacle at a variety of vertical heights relative to the clamp as a mere substitution of equivalent parts.

Regarding claims 13, 17 and 18, Raia teaches arm portions and receptacle support comprising a first arm portion (16), a second arm portion (17) and a fluid receptacle support (27, 34, 35). The first arm portion (16) extends from the clamp. The second arm portion (17) extends from the first arm portion. The fluid receptacle support (27, 34, 35) is mounted on the second arm portion. The fluid receptacle support is mounted on a rod (18). The rod is mounted to an end of the second arm portion and movable with respect to the end of the second arm portion. The rod extends telescopically within the second arm portion.

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Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vetter in view of U.S. Patent No. 4,042,232 to Lile. Vetter teaches an apparatus comprising a clamp (10) and an arm (26). The clamp removably secures the apparatus to an object or medical table (abstract) to allow the object to support the apparatus. The object is immovable relative to the patient to which the fluids are to be delivered. The arm extends from the clamp. The arm is movable longitudinally with respect to the clamp (col. 4, line 3 +), thereby allowing the position of the support with respect to the clamp to be adjusted. The arm is rotatable about its longitudinal axis with respect to the clamp. The arm is rotatable about the clamp in a plane containing the longitudinal axis of the arm (col. 4, line 7+). The object is a surgical table (col. 2, line 56+). The clamp is adapted to be releasably secured to a rail (13) extending along an edge of the surgical table. However, Vetter fails to teach the arm having a first and second portions extending from a clamp.

Lile teaches an arm comprises a first portion (22) extending from the clamp (12,14) and a second portion (16) extending from the first portion substantially perpendicular to the first portion. The second portion of the arm is rotatable about the first portion of the arm (col. 2, lines 49+). The first portion of the arm is rotatable about its longitudinal axis with respect to the clamp. It would have been obvious to one having ordinary skill in the art the time the invention was made to have substituted the arm as taught by Lile for the arm as taught by Vetter for the purpose of providing a medical receptacle in orientation perpendicular to the first portion.

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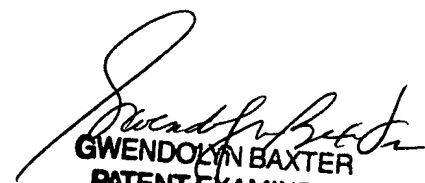
Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Powell 837,642; Alexander 3,709,372; Allard 3,709,556; Kramer et al. 5,407,163; Hansen 5,499,721 and Slone 6,231,016 illustrates medical support carriers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gwendolyn Baxter whose telephone number is (703) 308-0702. The examiner can normally be reached Monday-Friday from 8:30 A.M. to 5:00 P.M. Eastern Time Zone.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-1113. The fax phone number for this Group is (703) 305-3597.

GB
August 22, 2002


GWENDOLYN BAXTER
PATENT EXAMINER
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